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SUBJECT: LINKING MIGRATION AND HUMAN RIGHTS: PREPARING FOR EXPANDED
GLOBAL DIALOGUE

¶1. (SBU) Summary: The nexus of human rights and migration is set to be the focus of discussion in a number of separate fora, both governmental and non-governmental, during 2010. The U.S. often finds itself on the defensive in many of these bodies, especially the Human Rights Council. U.S. policy goals in the area of migration are to promote safe, orderly and humane migration, forestall contentious and often wasteful discussion of new normative institutions for global migration "governance" (either within or outside the UN system), and strengthen national commitments to international humanitarian law that protects populations of concern (e.g., refugees, unaccompanied minors, victims of human trafficking.) To be successful in these goals, the U.S. needs to be active and creative in the international debate and to build coalitions with like-minded countries, including some traditional source countries of migration. As a major destination country for migrants from around the world, and the largest resettlement country for refugees, as well as a major contributor to migration dialogues and counter-trafficking programs worldwide, the U.S. has a good story to tell on these issues. We can only tell it, however, if we are at the table. End Summary

¶2. (U) The following international or non-governmental organizations (NGOs) are planning to discuss some aspect of the migration and human rights linkage during the coming year. (The list excludes UNHCR, which as part of its formal protection mandate for refugees and other vulnerable migrants discusses human rights during its annual Executive Committee session.)

-- The UN High Commissioner for Human Rights: OHCHR has identified migration as a thematic priority in its Strategic Management Plan for the 2010-2011 biennium;

-- The Global Forum for Migration and Development (GFMD): Mexico, as current GFMD chair has signaled its intention to expand the human rights discussion at the Forum's fourth session in Puerto Vallarta in November 2010;

-- GFMD Civil Society Days: The NGO annex to the GFMD's government-to-government discussions has discussed human rights of migrants since its inception;

-- International Dialogue on Migration (IDM): The annual policy dialogue of International Organization for Migration (IOM) member states, IDM's theme for 2010 is Migration and Social Change. The

early draft agenda for the first intersessional includes a discussion of human rights of migrants, especially in regard to temporary and circular labor migrants;

-- The International Catholic Migration Commission: ICMC recently held an informal "conversation" on global governance of migration that includes a human rights component.

13. (U) This intensified activity virtually guarantees that the subject of human rights and migration will receive continued international attention between now and the UN High-level Dialogue (HLD) on Migration and Development scheduled for 2013.

OHCHR

14. (SBU) OHCHR's draft 2010-2011 strategic management plan includes "Protecting Human Rights in the Context of Migration" as one of its thematic priorities. High Commissioner Pillay presented a strategy paper to member states in December 2009 that set out her priorities in this area: bringing a human rights perspective to

international debates on migration policy, combating discrimination, xenophobia, and other forms of intolerance toward migrants, promoting the economic, social, and cultural rights of migrants, addressing the detention and criminalization of irregular migrants, and understanding the impact of the global economic crisis on migration.

15. (SBU) OHCHR's strategy paper lists the following nine anticipated results which the agency hopes to achieve over the next two years:

-- Compliance of domestic migration policies with "international standards";

-- Ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) by more UN member states;

-- Increased national mechanisms to monitor, investigate, and address violations of migrants' human rights;

-- Increased access of migrants, especially women, to basic social services;

-- Improved compliance by states with UN human rights mechanisms with regard to "migrants' rights"; (described further as OHCHR support for the UN Special Rapporteur on the human rights of migrants, and enhanced training and technical assistance for ICRMW parties to help them fulfill their obligations under the Convention);

-- Expanded engagement with, and training for, local and national human rights organizations to promote migrants' rights;

-- Better integration of human rights standards and principles, especially as they relate to migration, into national and regional human rights laws or institutions;

-- Improved responsiveness by the international community to migrants' rights;

-- Integration of human rights standards and principles into the

work of international and regional processes on migration.

¶16. (SBU) Reflecting OHCHR's role as coordinator of the steering committee for ICRMW ratification, many of the proposed activities seek to promote the Convention. Unfortunately, given the inherent weaknesses of the Convention and the fact that relatively few migrant destination countries have or are expected to ratify it, Human Rights Council discussions that focus on the ICRMW are unlikely to lead to concrete improvement of the social or economic conditions of vulnerable migrants or persons of concern.

Global Forum for Migration and Development

¶17. (SBU) Since its inception in 2006, the Global Forum has included a strong human rights component in its deliberations. Many GFMD members, especially those that are sources of significant numbers of migrant workers, are vocal advocates of the view that improved human rights protection for all migrants is a critical prerequisite for countries to receive the full developmental benefits of inward or outward migration. At the 3rd GFMD session in Athens in November 2009, one of the roundtables explored "the combination of rights and services needed to support and empower migrants in their host countries, and enhance their capacities to contribute to development." It also expanded past GFMD debates on migrant integration to a temporary or circulating migrants, who are often less able to exercise their basic human rights or access services available to permanent immigrants. The roundtable recommended, inter alia, countries seek ways to improve integration programs for migrant communities through better education and training with a particular focus on protection in the workplace, in

order to protect migrant workers from discrimination, abuse and exploitation.

¶18. (SBU) Mexico, as 2010 GFMD Chair (and an active proponent of migrant issues in various UN bodies), has already indicated it wants to have an expanded human rights discussion at this year's meeting. Mexican Geneva Perm Rep said in December his government believes it is impossible to have a meaningful global dialogue on migration or development outside of a framework of human rights. However, he also emphasized that Mexico, as a country that is historically sensitive to intrusions on its sovereignty, does not believe human rights of migrants includes an "unrestricted right to cross borders at will." Mexico hopes, however, the GFMD can "break through some of the cliché????s" that have largely defined past international discussions of the human rights and migration nexus. He agreed that before discussing new or expanded international legal frameworks for the protection of the human rights of migrants, it would be useful to look for ways to improve implementation of existing instruments.

International Dialogue on Migration

¶19. (SBU) The International Dialogue on Migration recently completed a year-long series of workshops on the theme Human Rights and Migration. In 2010, the IDM theme will be Migration and Social Change, which will include a number of human rights related topics.

¶10. (SBU) The subject of the March 2010 workshop will be

"Transnationalism", which the International Organization for Migration (IOM) defines as the trend of individuals identifying with, or holding socio-cultural ties to, more than one country over the course of a lifetime. Included in an early draft of the workshop agenda is a session entitled "Protecting the Social and Political Rights of Transnational Migrants" that will explore differing national approaches to dual nationality, the differing political and social rights host governments accord to permanent and temporary foreign residents within their territories, and innovative measures to enhance the social and political participation of migrants in both communities of origin and destination. A separate session will look at the impact of transnationalism on families, including families separated when one parent migrates for economic reasons, and the growing challenges that arise as a result of the extension of family ties across borders.

NGOS

¶11. (SBU) Non-governmental organizations are increasingly involved in the global migration debate, often as strong advocates for greater international protection of the human rights of migrants. At least two non-governmental fora are scheduled this year which will explore the linkages between migration and human rights.

¶12. (SBU) GFMD: Concurrent with the governmental GFMD meeting each year is a parallel Civil Society Days (CSD) event that brings together more than 100 national and international NGO's to discussion the same agenda as the government session. The 2009 CSD report called for providing all migrants with the same protections as those given host country citizens, actively informing migrant of their rights and obligations, and expanding access to health care and labor protections. GFMD Chair Mexico has already said it wants to expand the role of the CSD this year to include an opportunity for civil society observers to attend all GFMD sessions. If that occurs, it is certain to lead to a more expanded discussion of the issue of human rights with the full Forum session.

¶13. (SBU) ICMC: The ICMC mission statement says the organization advocates for "rights-based policies that serve and protect refugees, internally displaced persons and migrants, and other uprooted persons." ICMC in December 2009 hosted what it billed as a "conversation" on the topic of global "governance" of migration. Some participants at that session argued that a new international structure was needed to address alleged "governance gaps." Others insisted a more effective strategy to improve international cooperation on migration issues would seek to strengthen existing entities, such as regional consultative processes or the GFMD. Such a decentralized approach, they claimed, would take account of the different migration patterns that exist in various parts of the world and avoid a "one size fits all" approach to global migration issues. ICMC is considering sponsoring additional seminars on this topic in New York and Washington in the coming months.

Adopting a Proactive Strategy

¶14. (SBU) The variety of planned discussions of migration and human rights over the coming months will provide both challenges and numerous opportunities for the U.S. to move the global debate on migration issues in a positive direction the U.S. needs to formulate a strategy for participation in these events.

¶15. (SBU) The core of such a strategy would include:

- Avoiding, as much as possible, defensive responses and proactively seeking to build a caucus of like-minded countries on the range of migration and human rights issues;
- Seeking to focus discussion on strengthening implementation of existing conventions rather than creating new international agreements or institutions;
- Exploring with other donor countries ways to expand assistance programs and other cooperative projects that assist developing countries to cope with increasing irregular and mixed migration flows;
- Promoting enhanced understanding of the obligations of parties to the 1951 Refugee convention and subsequent protocols so as to reinforce with all parties their obligation to prevent refoulement and involuntary return and encourage greater cooperation with UNHCR on protection issues of populations of concern.

¶16. (SBU) The European Commission office in Geneva has expressed interest in working with us in using the opportunity of migration related discussions in the HRC and other fora to promote practical programs to enhance understanding of and enforcement of countries existing obligations toward migrant workers, refugees and other temporary residents as a way of as a way of deflecting attention from efforts to promote a new legal instrument or to create a new global migration governance institution.
RICHTER